

REMARKS

In response to the September 16, 2010 Notice of Allowance and attachments (Examiner's Amendment), Applicants have added new claims 39-55 corresponding to cancelled claims 5-8 and 19-31, which were cancelled by the September 16, 2010 Examiner's Amendment. Applicants believe these claims were erroneously cancelled by the September 16, 2010 Examiner's Amendment, as explained below.

Specifically, previously presented (now cancelled) claims 5-8 and 19-31 were directed to non-elected species of elected group I, and thus, were appropriately withdrawn from consideration. However, previously presented claims 5-8 and 19-31 depended from allowed independent claim 2 and were part of elected group I, and thus, should have been rejoined and allowed in this application as indicated in the May 7, 2009 Restriction Requirement, which indicates that

Upon allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided in 37 C.F.R. 1.141.

Previously present claims 5-8 and 19-31 clearly fall into this category, and thus, should have been considered, rejoined and allowed. Thus, the cancellation of previously present claims 5-8 and 19-31 in the September 16, 2010 Examiner's Amendment was not appropriate¹. New claims 39-55 correspond to cancelled claims 5-8 and 19-31. Thus, new claims 39-55 are directed to non-elected species of elected group I. Therefore, new claims 39-55 do not read on the elected species (A) of elected group I and can be withdrawn from consideration. However, since new claims 39-55 (corresponding to previously presented claims 5-8 and 19-31) depend from allowed independent claim 2 and are directed to elected group I, new claims 39-55 should be considered, rejoined and allowed in this application as indicated in the May 7, 2009 Restriction Requirement.

¹ In the July 14, 2010 Amendment, Applicants requested that the withdrawn claims be rejoined and considered upon allowance of a generic and/or linking claim if appropriate. In this case, claims 5-8 and 19-31 should have been considered, rejoined and allowed.

Applicants believe that previously presented claims 3 and 32-38, which were directed to non-elected group II, were appropriately cancelled by the September 16, 2010 Examiner's Amendment.

Interview Summary

On October 2010, the undersigned conducted numerous telephonic Interviews with Examiner Rogers, who is in charge of the above-identified patent application. Basically, the undersigned explained the points made above during the Interviews. Applicants wish to thank Examiner Rogers for courteous Interviews during October 2010. Examiner Rogers indicated that she and her SPE generally agree that claims 5-8 and 19-31 should not have been cancelled, but were unsure how to reinstate the cancelled claims 5-8 and 19-31. Thus, the undersigned suggested an amendment under 37 C.F.R. §1.312 adding new claims corresponding to cancelled claims 5-8 and 19-31. Examiner Rogers and her SPE agreed that filing an amendment under 37 C.F.R. §1.312 adding new claims corresponding to cancelled claims 5-8 and 19-31 would be a good course of action, and that such an Amendment should be entered. Accordingly Applicants are filing this Amendment, which adds new claims 39-55, which correspond to erroneously cancelled claims 5-8 and 19-31.

In accordance with MPEP 714.16, this Amendment should be approved by an SPE because:

- (A) the Amendment is needed to correct an erroneous cancellation of claims;
- (B) the new claims correspond to cancelled claims 5-8 and 19-31, which were examiner for indefiniteness in at least the November 12, 2008 Office Action issued before the restriction requirement was made, are allowable by virtue of their dependence on allowed independent claim 2, and thus no additional search or examination; is needed
- (C) the new claims are allowable by virtue of their dependence on allowed independent claim 2; and
- (D) the new claims actually were presented earlier, but were erroneously cancelled, which is why these new claims are now presented.

* * *

No other changes have been made to the claims by the current Amendment. Thus, claims 2, 4, 9-18 and 39-55 are now pending, with claim 2 being the only independent claim. Entrance of this Amendment is respectfully requested based on the above explanation. If there are any questions regarding this Amendment, please feel free to contact the undersigned.

Respectfully submitted,

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